IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 24TH NOVEMBER 2006 / 3RD AGRAHAYANA 1928

WP(C).No. 27874 of 2006(R)

PETITIONER:

M/S.CALICUT RUBBER COMPANY,
INDUSTRIAL ESTATE, WEST HILL, CALICUT-673 005,
REP. BY ITS MANAGING PARTNER, K.S.PAUL RAJ,
AGED 54 YEARS, S/O.K.S. STEPHEN,
MAMRE NAGAKANTIPARAMBU, B.G. ROAD, CALICUT.

BY ADV. SRI.C.S.MANU

RESPONDENTS:

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1. UNION OF INDIA REPRESENTED BY ITS
SECRETARY, MINISTRY OF CENTRAL EXCISE AND
CUSTOMS, GOVERNMENT OF INDIA,
NEW DELHI.

2. COMMISSIONER OF CENTRAL EXCISE AND
CUSTOMS, CALICUT COMMISSIONERATE
CENTRAL REVENUE BUILDING, MANANCHIRA,
CALICUT-673 001.

3. COLLECTOR OF CENTRAL EXCISE,
COCHIN.

4. ASSISTANT COMMISSIONER OF CENTRAL
EXCISE, CALICUT.

5. SUPERINTENDENT (ADJUDICATION)
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE &
CUSTOMS, CALICUT COMMISSIONERATE
CRC, MANNANCHIRA, CALICUT-673 001.

BY ADV. SRI.JOHN VARGHESE, ASSISTANT SG

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.27874 of 2006

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Dated this the 24th day of November, 2006.

JUDGMENT

The prayer in the W.P. is for direction to second respondent to issue copies of records seized in 1985 during inspection before completion of adjudication. In fact it is seen from Ext.P1 order of the Tribunal that Tribunal has specifically directed second respondent to furnish copies of seized records relied on by the Department before adjudication. The Assistant Solicitor General appearing for the respondents submitted that seized records are not available with the Department. If Department has not kept seized records in pending matters, then I do not know on what basis fresh adjudication can be completed based on Tribunal's direction for denovo adjudication. Since the second respondent in the counter affidavit takes the stand that records are not available, obviously copies cannot be given to the petitioner. The petitioner also cannot have any grievance because Department has no material to rely on against him. In the circumstances, the W.P. is disposed of with direction to second respondent to complete the adjudication whatever be its worth for the Department, within a period of three months from the date of production of a copy of this judgment by the petitioner. If any document or data gathered on inspection or any material is relied upon based on documents, then copy of the same should be given to the petitioner and without furnishing copies

such documents should not be relied on by the second respondent for entering findings against the petitioner.

C.N.RAMACHANDRAN NAIR
Judge

pms